

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL J. FOX,

Defendant.

No. 3-05-70706

~~[PROPOSED]~~ ORDER RE WAIVER
OF TIME UNDER F.R.Cr.P. 5.1 AND
FINDING EXCLUDABLE TIME
UNDER SPEEDY TRIAL ACT
18 U.S.C. § 3161(b); (h)(8)(A)&(B)(iv)

The parties appeared before the Court on October 6, 2005. The defendant was represented by Assistant Federal Public Defender Elizabeth Falk, and the United States was represented by Assistant United States Attorney Susan Badger. A criminal complaint was filed in this matter on August 30, 2005, and the defendant made his initial appearance before Magistrate Zimmerman that same date. The defendant was released on an unsecured personal recognizance bond. Upon the motion of the defendant, Magistrate Zimmerman found that Mr. Fox knowingly and voluntarily waived time for indictment

1 pursuant to Rule 5.1 of the Federal Rules of Criminal Procedure, and that time was
2 excluded under the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(8)(A) & (B)(iv).

3 At the appearance on October 5, 2005, AFD Falk advised the Court that she was
4 in the process of reviewing discovery with her client and was engaged in discussions with
5 the government regarding pre-indictment settlement of the case. The defendant indicated
6 that he was prepared to waive time for indictment under Rule 5.1(c) of the Federal Rules
7 of Criminal Procedure in order to facilitate the discussions about a possible resolution.
8 The parties agreed to continue the matter to November 1, 2005 at 9:30 a.m. before
9 Magistrate Judge Edward Chen for arraignment or preliminary hearing. In light of the
10 need for time for effective preparation, taking into account due diligence, the defendant
11 also requested that the time between October 6, 2005 and November 1, 2005 be excluded
12 from the time requirements of the Speedy Trial Act.

13 Upon the request of the parties and good cause appearing, the Court accepts the
14 defendant's waiver of time for indictment under F.R.Cr.P. 5.1(c). Further, the Court finds
15 that the time between October 6, 2005 and November 1, 2005 is excluded from the time
16 requirements of the Speedy Trial Act, 18 U.S.C. 3161(b), in order to provide the parties
17 reasonable time for effective preparation, that is, to review discovery and discuss possible
18 settlement of the case, taking into account due diligence. 18 U.S.C. 3161(h)(8)(A) &
19 (B)(iv).

20
21 IT IS SO ORDERED.

